IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CIVIL WRIT PETITION NO.1300 OF 1996

Vithal Ganesh Halbe & ors. Petitioners
Vs.
Miraj Municipal Council, Miraj
and ors. Respondents

WITH

CIVIL WRIT PETITION NO.1427 OF 1996

Shri Ashok Sadashiv Pol Petitioner
Vs.
Miraj Municipal Council, Miraj
and ors. Respondents

Mr.M.L.Patil for petitioners in W.P.1300/96.

Mr.T.S.Ingle for petitioner in W.P.1427/96.

Mrs.S.S.Bhende for Resp.Nos.2,4 and 5.

Mr.V.B.Rajure for Resp.No.1.

CORAM: B.H.MARLAPALLE & D.B.BHOSALE,JJ.
May 03, 2006.

P.C.

. Consequent to the order passed by us on 22nd March 2006, Shri T.G. Kasar, Deputy Commissioner (General), Office of the Divisional Commissioner, Pune Division at Pune has filed an affidavit-in-reply and it has been stated, inter alia, that the Chief Officer of the Municipal Council is responsible to ensure that the elected representatives do not pass illegal resolutions and if such resolutions are passed, he has to invite the attention of the

Collector so as to initiate proceedings under Section 308 of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965. Undoubtedly failure on the part of the Chief Officer to perform his statutory duties under the said Act would invite penal actions under the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 more so because, he being the Chief Officer, has been entrusted by the statute to be alert and to ensure that the elected representatives function within the limits of the statutory provisions i.e. the Municipalities Act and the Rules framed thereunder.

This position in law cannot be disputed.

. However, none of the petitioners was any time given the charge of Chief Officer of Miraj Municipal Council. We have noted that petitioner no.1 in Writ Petition No.1300 of 1996 was working as Municipal Engineer, petitioner no.2 as Sanitary Engineer and petitioner no.3 was Plantation Officer at the relevant time. The impugned demand notice dated 17th February 1996 could not have been issued by the Collector and in fact the Collector could have suo motu initiated proceedings under Section 308 of the Municipalities Act and stayed the so called illegal

resolution purported to have been passed by the Municipal Council on 27/11/1986. We have also noted that the petitioner in Writ Petition No.1427 of 1996 was working as the Tax Superintendent at the relevant time.

. For the reasons stated in our order dated 28/8/1996 and on the face of the affidavit filed by the Deputy Commissioner as referred to hereinabove, the petitions succeed partly and we make the rule absolute in both the petitions in terms of prayer clause (b). The sureties furnished consequent to the order dated 28/8/1996 stand discharged and the Municipal authorities i.e. the Commissioner shall return the certificates concerned.

(D.B.BHOSALE,J.) (B.H.MARLAPALLE,J.)